

# Memorandum

**To:** Chair and Commissioners

**Date:** November 26, 2002

**From:** Diane C. Eidam

**File No:**  
**Reference Number 2.2c.(5)**  
**Action**

**Ref:** **San Joaquin Rail Corridor Capacity Improvement Project (San Joaquin County) – Future Consideration of Funding to Install a Second Track from South of Escalon to Stockton within the San Joaquin Rail Corridor (Notice of Determination) (TCRP #99.2) Resolution E-02-46**

**Issue:**

Should the Commission adopt the attached resolution to approve future consideration of funding to install a second track south of Escalon to Stockton within the San Joaquin Rail Corridor in San Joaquin County?

**Recommendation:**

Commission staff recommends that the Commission, as a responsible agency, approve the attached Resolution E-02-46. As a responsible agency, the Commission must approve this Resolution prior to allocating funds for capital purposes on the proposed project.

**Background:**

This resolution proposes to approve for future consideration of funding the following project for which a Mitigated Negative Declaration under the California Environmental Quality Act has been completed:

- Install a second track from south of Escalon to Stockton within the San Joaquin Rail Corridor in San Joaquin County

The project is to install a second track from south of Escalon to Stockton to enhance track efficiency within the San Joaquin Rail Corridor. This project will include installing fill adjacent to the existing track; installing the second track over the whole alignment; installing new sidings where needed; upgrading and replacing existing signal systems; and purchase of about 20 acres of new right-of-way along the alignment.

The current estimate for the project is \$62,574,900, of which \$7,000,000 in funding will be provided through the Governor's Traffic Congestion Relief (TCR) Program, Project #99.2, for Phase 4 (Construction). The remaining \$55,574,900 will come from 1996 STIP (SHA/IIP), 2002 STIP and Proposition 116 funds. The Commission, at its May 9, 2002 meeting, approved the Department of Transportation's (Department) original project application.

The Department has approved the Mitigated Negative Declaration and has filed a Notice of Determination for this project. The Mitigated Negative Declaration and supporting Initial Study has been transmitted to Commission staff.

A pending lawsuit has been filed by the City of Escalon against the Department in regards to the environmental document. Per CEQA Guidelines, Section 15233 Conditional Permits, if a lawsuit is filed challenging an Environmental Impact Report (EIR) or Negative Declaration, Responsible Agencies, such as the Commission, shall act as if the EIR or Negative Declaration complies with CEQA and continue to process the application for the project according to the time limits for a Responsible Agency action

The Commission's approval and the resulting filing of the attached Notice of Determination with the Office of Planning and Research will satisfy the environmental requirements for this stage of the project planning process.

Attachment

## **CALIFORNIA TRANSPORTATION COMMISSION**

### **Resolution for Approval of Project for Consideration of Funding San Joaquin Rail Corridor Capacity Improvement Project (Escalon to Stockton) (San Joaquin County)**

Resolution E-02-46

**1.1 WHEREAS**, the Department of Transportation has completed a Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the California Transportation Commission Environmental Regulations for the following project

- Install a second track from south of Escalon to Stockton within the San Joaquin Rail Corridor in San Joaquin County

**1.2 WHEREAS**, the California Transportation Commission, as a responsible agency, has considered the information contained in the Mitigated Negative Declaration; and

**1.3 WHEREAS**, the project will not have a significant effect on the environment.

**1.4 WHEREAS**, per CEQA Guidelines, Conditional Permits, state that if a lawsuit is filed challenging an Environmental Impact Report (EIR) or Negative Declaration for noncompliance with CEQA, Responsible Agencies shall act as if the EIR or Negative Declaration complies with CEQA and continue to process the application for the project according to the time limits for Responsible Agency action contained in Government Code Section 65952.

(a) If an injunction or a stay has been granted in the lawsuit prohibiting the project from being carried out, the Responsible Agency shall have authority only to disapprove the project or to grant a conditional approval of the project. A conditional approval shall constitute permission to proceed with a project only when the court action results in a final determination that the EIR or Negative Declaration does comply with the provisions of CEQA (Public Resources Code Section 21167.3(a)).

(b) If no injunction or stay is granted in the lawsuit, the Responsible Agency shall assume that the EIR or Negative Declaration fully meets the requirements of CEQA. The Responsible Agency shall approve or disapprove the project within the time limits described in Article 8, commencing with Section 15100, of these Guidelines and described in Government Code Section 65952. An approval granted by a Responsible Agency in this situation provides only permission to proceed with the project at the applicant's risk prior to a final decision in the lawsuit (Public Resources Code Section 21167.3(b)).

**2.1 NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby approve the above referenced project for future consideration of funding.